

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
UNITED STATES OF AMERICA,

v.

BYRON MOUNTAIN,

Defendant.
-----X**ORDER**

19 CR 700-4 (VB)

Previously, the Court was advised that defendant Mountain is likely to enter a guilty plea at the next scheduled court date, which is December 18, 2020, at 2:30 p.m. The Court expected to conduct this proceeding in person at the Courthouse.

In light of the worsening public health crisis, it has now become clear that judges should avoid holding in-person proceedings for the foreseeable future unless absolutely necessary. Accordingly, the Court is inclined either to adjourn the change of plea hearing until late January 2021 (or later), or to conduct the proceeding by videoconference or telephone conference. However, before rescheduling the proceeding or ordering that it be conducted remotely, the Court wishes to solicit the views of the parties as to how best to proceed.

By no later than December 4, 2020, counsel shall confer and advise the Court by joint letter whether they believe it is appropriate to adjourn the December 18 in-person change of plea hearing until late January 2021 (or later); if so, they shall propose several dates and times when all counsel are available. Counsel should keep in mind that the public health crisis may not improve, or may even worsen, in the coming months.

Counsel shall also advise whether they believe it would be appropriate to conduct the proceeding by videoconference or teleconference; if so, and if defendant expects to enter a guilty plea, a finding pursuant to Section 15002(b)(2)(A) of the CARES Act as well as defendant's consent after consultation with counsel would be required. If counsel believe a remote guilty plea is appropriate, they shall propose a CARES Act finding and state whether defendant consents. In the event counsel believe the proceeding should be held remotely, there is no guarantee that the current scheduling protocols for detained defendants will permit the Court to hold the proceeding on December 18. Thus, if the parties wish to proceed remotely, they shall propose several dates and times when all counsel are available.

In the event the parties believe the next court date should be adjourned, they shall indicate whether they consent to an exclusion of time under the Speedy Trial Act, and the basis for such exclusion.

Dated: November 30, 2020
White Plains, NY

SO ORDERED:



Vincent L. Briccetti, U.S.D.J.